

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Lai	Team: Team # 1	CCRB Case #: 201201879	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/02/2012 6:20 AM	Location of Incident: § 87(2)(b) § 87(2)(b) 120th Precinct stationhouse	Precinct: 120	18 Mo. SOL 8/2/2013	EO SOL 8/2/2013	
Date/Time CV Reported Thu, 02/09/2012 5:46 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 02/09/2012 5:46 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Manuel Sepulveda	16172	929157	120 PCT
2. SDS Henry Chernyavsky	04260	905582	INT CIS
3. SGT James Capper	04633	920084	INT CIS
4. POM Jason Portee	20435	945283	120 PCT
5. POF Mashiel Santos	19136	943782	120 PCT
6. Officers			INT CIS
7. An officer			Unknown

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Fred Klein	06321	911705	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered and searched § 87(2)(b) in Staten Island.	§ 87(2)(b)
B. POF Mashiel Santos	Abuse: At § 87(2)(b) in Staten Island, PO Mashiel Santos strip-searched § 87(2)(b)	§ 87(2)(b)
C. POM Manuel Sepulveda	Force: At § 87(2)(b) in Staten Island, PO Manuel Sepulveda used physical force against § 87(2)(b)	§ 87(2)(b)
D. POM Manuel Sepulveda	Abuse: At § 87(2)(b) in Staten Island, PO Manuel Sepulveda did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
E. SDS Henry Chernyavsky	Abuse: At § 87(2)(b) in Staten Island, Sgt. Henry Chernyavsky did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
F. SGT James Capper	Abuse: At § 87(2)(b) in Staten Island, Sgt. James Capper did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
G. An officer	Discourtesy: At § 87(2)(b) in Staten Island, an officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)
H. POM Jason Portee	Abuse: At the 120th Precinct stationhouse, PO Jason Portee did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		

Case Summary

§ 87(2)(b) filed this complaint with the CCRB's Call Processing System on February 9, 2012. On February 2, 2012, at approximately 6:20 a.m., Sgt. Henry Chernyavsky of the Intelligence Criminal Section executed a search warrant at § 87(2)(b) of § 87(2)(b) in Staten Island, where § 87(2)(b) and his girlfriend, § 87(2)(b) resided. The following allegations resulted:

- **Allegation A – Abuse of Authority: Officers entered and searched § 87(2)(b) in Staten Island.**

§ 87(2)(g)

- **Allegation B – Abuse of Authority: At § 87(2)(b) in Staten Island, PO Mashiel strip-searched § 87(2)(b)**

§ 87(2)(g)

- **Allegation C – Force: At § 87(2)(b) in Staten Island, PO Manuel Sepulveda used physical force against § 87(2)(b)**

- **Allegation D – Abuse of Authority: At § 87(2)(b) in Staten Island, PO Manuel did not obtain medical treatment for § 87(2)(b)**

- **Allegation E – Abuse of Authority: At § 87(2)(b) in Staten Island, Sgt. Henry Chernyavsky did not obtain medical treatment for § 87(2)(b)**

- **Allegation F – Abuse of Authority: At § 87(2)(b) in Staten Island, Sgt. James Capper did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(g)

- **Allegation G – Discourtesy: At § 87(2)(b) in Staten Island, an officer spoke discourteously to § 87(2)(b)**

§ 87(2)(g)

- **Allegation H – Abuse of Authority: At the 120th Precinct stationhouse, PO Jason Portee did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(g)

- § 87(2)(g), § 87(4-b)

This complaint was initially assigned to Inv. Minsuk Kim. It was reassigned to the undersigned investigator on December 27, 2012, due to Inv. Kim's departure from the agency.

Results of Investigation

Civilian Statements

Complainant/ Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old § 87(2)(b) was not employed at the time of his interview.

CCRB Testimony

§ 87(2)(b) provided an in-person statement at the CCRB on February 23, 2012 (encl. D1-4). On February 2, 2012, at approximately 6:20 a.m., § 87(2)(b) was sleeping at his home, located at § 87(2)(b) in Staten Island, with his girlfriend, § 87(2)(b) when he heard rattling and a loud pop. Approximately twelve officers, two in uniform and the rest in plainclothes, entered the apartment. Approximately eight plainclothes officers entered § 87(2)(b)'s bedroom with flashlights and their handguns drawn, and § 87(2)(b) was ordered to lay down on the floor. § 87(2)(b) complied, he lay face-down, and was handcuffed while on the floor. § 87(2)(b) was also handcuffed, but was permitted to stay on the bed.

§ 87(2)(b) remained face-down, handcuffed on his bedroom floor, for approximately 30 minutes. Meanwhile, officers searched § 87(2)(b)'s apartment, specifically the living room and kitchen. § 87(2)(b) could not see the officers searching the apartment, but was able to determine where the officers were searching by sound. The officers did not say anything as they searched the apartment. § 87(2)(b) was brought to his feet and sat on top of his bed, next to § 87(2)(b) and § 87(2)(b) were still handcuffed. An officer who § 87(2)(b) did not recall asked him if he had any clothes. § 87(2)(b) stated that he did and directed the officer to them. § 87(2)(b) had been wearing only a tank top and boxers, and was given a pair of pants to wear. § 87(2)(b) told § 87(2)(b) to ask an officer if they had a search warrant. Together, § 87(2)(b) and § 87(2)(b) asked officers generally – no one specifically – if they had a warrant, but no one responded.

After approximately five minutes on top of the bed, § 87(2)(b) and § 87(2)(b) were brought out to the living room and sat down on the couch, which faced a window looking out to the rear of his building. As § 87(2)(b) and § 87(2)(b) were escorted into the living room, § 87(2)(b) asked the officers what they were looking for. An officer, identified via investigation as Sgt. Henry Chernyavsky of the Intelligence Criminal Section, who was described as a white male, 6' tall, medium build, mid-30s, short hair, plainclothes, answered that they were looking for guns. § 87(2)(b) sat to § 87(2)(b)'s left.

Officers continued to search § 87(2)(b)'s apartment as § 87(2)(b) and § 87(2)(b) sat on the couch. Sgt. Chernyavsky and Sgt. James Capper of the Intelligence Criminal Section, who was described as a white male, 5'5" tall, medium build, mid-30s, blond sideburns, plainclothes, wearing a baseball cap, asked § 87(2)(b) questions about his brothers, § 87(2)(b). The officers asked if his brothers were currently incarcerated, if they had been released, and what the brothers had been arrested for.

A plainclothes officer, identified via investigation as PO Manuel Sepulveda of the 120th Precinct, who was described as a Hispanic male, 5'10" tall, medium build, mid-30s, short black hair, entered a closet in § 87(2)(b)'s living room. PO Sepulveda found a laminated insert—cover art for a CD that § 87(2)(b) had recorded—and brought it over to § 87(2)(b). PO Sepulveda told § 87(2)(b) “This doesn’t even look like you,” and then slapped § 87(2)(b)'s left eye with the palm of his right hand. Sgt. Chernyavsky, Sgt. Capper, and PO Mashiel Santos of the 120th Precinct all witnessed the slap. PO Santos, identified via investigation, was described as a uniformed Hispanic female in her early 20s who stood 5'6", had a heavyset build, long curly hair,

and wore glasses. Sgt. Capper stood approximately five feet away from § 87(2)(b) PO Santos stood approximately 10 feet from § 87(2)(b) by the window opposite from where § 87(2)(b) was seated. The slap blurred § 87(2)(b)'s vision and made him dizzy. § 87(2)(b) said to PO Sepulveda that he wanted to go to the hospital because he started to feel dizzy immediately following the slap, but none of the officers provided medical treatment. Instead, officers told § 87(2)(b) that he did not need to go to the hospital and that he needed to “cut it out.” Either PO Sepulveda or Sgt. Chernyavsky told § 87(2)(b) “Stop fucking around;” § 87(2)(b) was uncertain which of the two officers made this remark.

§ 87(2)(b) was transported to the 120th Precinct stationhouse. En route, § 87(2)(b) who was the only prisoner, asked Sgt. Chernyavsky and Sgt. Capper for medical attention inside the van. Again, the officers did not obtain medical treatment, other than to say that he could do so once he was released from the stationhouse. In the stationhouse, § 87(2)(b) was held for four to five hours alone in a holding cell. During that time, he asked the officer guarding the holding cells, identified via investigation as PO Jason Portee of the 120th Precinct, for medical treatment. PO Portee was described as a uniformed white male who stood 5’11”, was bald, and had a medium build. He did not receive medical treatment. After § 87(2)(b) appeared before a judge on February 3, 2013, he was transported to Riker’s Island the following day, February 4, 2012. During intake, § 87(2)(b) received medical treatment, during which the attending physician told him that his eye was light-sensitive.

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) § 87(2)(b).

CCRB Testimony

§ 87(2)(b) provided an in-person statement at the CCRB on February 23, 2012 (encl. E1-5), and provided additional details over the telephone on March 12, 2012 (encl. M4).

§ 87(2)(b), § 87(2)(g) § 87(2)(b). On the incident date, § 87(2)(b) was sleeping with her boyfriend, § 87(2)(b) when three uniformed officers (white males wearing black pants, black jackets, and helmets) with large guns (approximately two feet in length) and shields, covering the area from their shoulders to their thighs, entered the apartment and handcuffed them. She repeatedly asked all the officers to see a warrant, but no one answered.

§ 87(2)(b), § 87(2)(a) CVR § 50-b

§ 87(2)(b). PO Santos was described as a uniformed Hispanic female in her early 30s who stood 5’4”, had a heavyset build and curly blonde hair, and wore glasses. PO Santos dressed § 87(2)(b). Four other officers were in the room with PO Santos: Sgt. Capper (white male, 5’7” tall, medium build, late-30s, in plainclothes, wearing a red or orange shirt), PO1 (white male, 5’5” tall, medium build, late-20s, blond hair, in plainclothes), PO2 (white or Hispanic male, 5’7” tall, early to mid-30s, dark brown or black hair, in uniform), and an officer identified via investigation as PO Sepulveda (Hispanic male, 5’7” tall, medium build, late-30s, dark brown hair, in plainclothes, wearing a police jacket). None of the other officers were in view when § 87(2)(b)'s shirt was lifted because her back was facing them when this occurred.

§ 87(2)(b) and § 87(2)(b) were taken to the living room and seated on a couch. The officers who had been with § 87(2)(b) and § 87(2)(b) in their bedroom accompanied them,

and the officers who had been searching in the living room moved into the bedroom. § 87(2)(b) continued to ask officers to show a warrant, but the officers did not provide one. She asked the officers why they were inside her apartment, but the officers did not answer.

Approximately half an hour after § 87(2)(b) and § 87(2)(b) were brought into the living room, PO Sepulveda found a CD insert. He stood to § 87(2)(b)'s right, and asked him "Who's this on the cover?" § 87(2)(b) replied, "Me. I do music." PO Sepulveda then reached across § 87(2)(b)'s body and slapped him in his left eye with the insert in his palm. § 87(2)(b) responded to the strike, "You see what just happened, right?" and stated that he needed to go to the hospital. Multiple officers told § 87(2)(b) to "stop playing" and to "cut it out." PO1 said, "Oh come on § 87(2)(b) it wasn't that serious." The officers did not use profanity when addressing § 87(2)(b).

§ 87(2)(b) asked again to see a warrant. Sgt. Capper told § 87(2)(b) that she would be provided with it soon. An officer, identified via investigation as Sgt. Chernyavsky, (white male, 5'8" tall, medium build, early-40s, black and gray hair, dark circles around his eyes) came out of the bedroom and asked § 87(2)(b) about an object that he had found. § 87(2)(b) informed Sgt. Chernyavsky that he had found bath salts given to her as a gift by her mother. Sgt. Chernyavsky told § 87(2)(b) that it was some type of drug. The officers who searched the bedroom also found a broken pocketknife in a drawer and plastic bags used for jewelry. § 87(2)(b) was released from her handcuffs. She saw that § 87(2)(b)'s nose was running, and wiped it for him. The officers provided § 87(2)(b) with a copy of the search warrant and left the apartment with § 87(2)(b) under arrest.

Later in the day, between 1:00 p.m. and 2:00 p.m., § 87(2)(b) heard a knock on the door. § 87(2)(b) looked through her peephole and saw that Sgt. Chernyavsky was at her door. She opened the door and Sgt. Chernyavsky told her that he had returned to arrest her. PO Sepulveda came to the door and explained that Sgt. Chernyavsky was joking, and that the officers had, in fact, returned to explain that the bath salts that the officers had recovered would not be used to prosecute her.

§ 87(2)(b) was standing at the door, and the officers walked past her, into her apartment. In the process of PO Sepulveda entering and turning past § 87(2)(b) she felt something that she did not see brush against her buttocks. The officers told § 87(2)(b) that they had forgotten something in their earlier search. PO Sepulveda entered § 87(2)(b)'s bedroom and emerged three minutes thereafter with three cell phones. PO Sepulveda said to Sgt. Chernyavsky, "One's missing." § 87(2)(b)'s phone, which was by her window because she received poor reception, rang and PO Sepulveda confiscated it. § 87(2)(b) asked the officers why they were taking the phones and why they had not taken them earlier. PO Sepulveda asked § 87(2)(b) why she was nervous. The officers examined § 87(2)(b)'s television and wrote down information about the set—possibly a serial number. The officers asked § 87(2)(b) if she had ever seen § 87(2)(b) with a gun and where he hides his guns. § 87(2)(b) told the officers that she did not know of any guns.

Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b). He was identified as a witness as police records indicate that he accompanied § 87(2)(b) in a 120th Precinct stationhouse holding cell for a portion of this incident.

Phone Statement

§ 87(2)(b) provided a phone statement on May 6, 2013 (encl. M13). On the date of the incident, while in the holding cell, § 87(2)(b) repeatedly yelled to § 87(2)(b) and out loud that he was in pain, but § 87(2)(b) did not specify his injury. A uniformed officer came and spoke with

§ 87(2)(b) but § 87(2)(b) did not recall this officer's physical appearance or the substance of their conversation as he was attempting to sleep.

NYPD Statement(s):

Subject Officer: PO MANUEL SEPULVEDA

- *PO Manuel Sepulveda is a § 87(2)(b).*
- *PO Sepulveda was the assistant to the Field Intelligence Officer on February 2, 2012 from 5:00 a.m. until 3:00 p.m. He worked with Sgt. Henry Chernyavsky, Sgt. James Capper, and a field team responsible for executing a search warrant. PO Sepulveda was in plainclothes and wore a raid jacket. He was assigned to an unmarked vehicle.*

Memo Book

At 6:20 a.m., PO Sepulveda executed a search warrant inside of § 87(2)(b), § 87(2)(b) resulting in the arrest of § 87(2)(b) for criminal possession of a weapon in the third degree, drug paraphernalia, and criminal possession of a controlled substance. Also present at the location, but not arrested, was § 87(2)(b) who is § 87(2)(b)'s girlfriend. A Stop, Question, and Frisk Report number 2012-120-01309 was prepared. At 7:50 a.m., PO Sepulveda exited § 87(2)(b) and went to the 120th Precinct stationhouse. At 9:50 a.m., PO Sepulveda returned to the location to recover cell phones which were left. He spoke to § 87(2)(b) and she gave PO Sepulveda the cell phones. Present with PO Sepulveda was Sgt. Chernyavsky of the intelligence unit. At 10:15 a.m., PO Sepulveda left the location for the 120th Precinct stationhouse (encl. F1-3).

Stop, Question, and Frisk Report

§ 87(2)(b) was stopped as she was suspected of criminal possession of a weapon. The circumstance that led to the stop was that she was present during the execution of a warrant for criminal possession of a weapon. She was frisked and searched. Contraband, a bottle of bath salt, was found (encl. F4-7).

Arrest Report

Pursuant to a valid Supreme Court search warrant, § 87(2)(b) was found to be in possession of a gravity knife, a controlled substance, and drug packaging. He was charged with criminal possession of a weapon in the third degree, criminal use of drug paraphernalia in the second degree, criminal possession of a weapon in the fourth degree, and criminal possession of a controlled substance (encl. F8-12).

CCRB Testimony

PO Sepulveda provided an in-person statement at the CCRB on September 17, 2012 (encl. F13-14). On the date of the incident, at approximately 6:20 a.m., PO Sepulveda executed a search warrant at § 87(2)(b) § 87(2)(b). ESU officers entered the apartment, handcuffed § 87(2)(b) and § 87(2)(b) and left the location thereafter. PO Sepulveda, Sgt. Chernyavsky, and Sgt. Capper entered the apartment, followed by two or three officers (comprising the security team). PO Sepulveda could not remember who the officers in the security team were, or if any of them were female. PO Sepulveda saw § 87(2)(b) in the living room; he could not recall if she was handcuffed. PO Sepulveda entered § 87(2)(b)'s bedroom. § 87(2)(b) was sitting on top of his bed, handcuffed. § 87(2)(b) was dressed and

removed to the living room where he sat on a couch, next to § 87(2)(b) PO Sepulveda did not recall ever seeing § 87(2)(b) searched in any manner.

PO Sepulveda and Sgt. Capper searched § 87(2)(b)'s bedroom. Almost immediately, PO Sepulveda found contraband that he did not specify on top of § 87(2)(b)'s dresser. PO Sepulveda could not recall how long he searched § 87(2)(b)'s bedroom. PO Sepulveda then went to the living room to continue his search. PO Sepulveda recovered additional contraband: a gravity knife and empty zips for drugs. PO Sepulveda could not recall for how long the living room was searched.

After PO Sepulveda concluded the search, he found a flyer with § 87(2)(b)'s face printed on it on the ground, by the couch. PO Sepulveda picked up the flyer and asked § 87(2)(b) "Is this you?" § 87(2)(b) smirked and replied, "Yeah." PO Sepulveda held the flyer next to § 87(2)(b)'s face, and § 87(2)(b) jerked his head back and said, "Ow." Sgt. Chernyavsky and Sgt. Capper stood to PO Sepulveda's right. A sergeant, PO Sepulveda could not recall who, asked, "Are you kidding me?" An officer did not say to § 87(2)(b) "Stop fucking around." § 87(2)(b) did not react to § 87(2)(b)'s gesture. The officers laughed. PO Sepulveda never struck § 87(2)(b) never requested medical treatment. § 87(2)(b) was transported to the 120th Precinct stationhouse in a vehicle that PO Sepulveda did not recall. § 87(2)(b) remained at the apartment.

PO Sepulveda and Sgt. Chernyavsky returned to the apartment because they did not remember to confiscate the cell phones inside the apartment. The officers knocked on the apartment door. § 87(2)(b) answered, and PO Sepulveda explained that the officers left the phones inside the apartment. PO Sepulveda asked to enter the apartment to retrieve the phones. § 87(2)(b) allowed PO Sepulveda and Sgt. Chernyavsky to enter. § 87(2)(b) was using one of the phones, but provided it to the officers. The officers left the apartment with the phones.

Subject Officer: SGT HENRY CHERNYAVSKY

- *Sgt. Chernyavsky is a § 87(2)(b).*
- *He was the Field Intelligence Officer on February 2, 2012, in a team of officers from the 120th Precinct, including PO Sepulveda, responsible for executing a search warrant. He worked from 4:30 a.m. until 12:45 p.m. He was assigned a motor vehicle, but he could not recall which, and was in plainclothes.*

Memo Book

Sgt. Chernyavsky did not prepare any memo book entries related to the incident (encl. G1-2).

CCRB Testimony

Sgt. Chernyavsky provided an in-person statement at the CCRB on October 4, 2012 (encl. G3-4). § 87(2)(g)

After ESU officers left, officers from the field team searched § 87(2)(b)'s apartment. Sgt. Chernyavsky may have participated in the search, but primarily supervised the search, ensuring that the officers searched where he instructed them to do so. Meanwhile, Sgt. Chernyavsky and PO Sepulveda primarily spoke with § 87(2)(b). Aside from explaining to § 87(2)(b) that the officers had a search warrant to search the residence, Sgt. Chernyavsky could not recall the details of his conversation with § 87(2)(b). Sgt. Chernyavsky spoke with § 87(2)(b) but could not recall the details of their conversation.

§ 87(2)(b) was searched some time during the incident. Sgt. Chernyavsky did not recall who searched § 87(2)(b) but stated that it would have been a female. As a matter of

course, females are generally searched in private by a female officer. Sgt. Chernyavsky did not know if any undergarments were exposed during the course of the search, noting that he would not have been present for the search, but stated that he did not authorize a strip-search.

Also, over the course of the incident, while § 87(2)(b) was sitting on a couch in the living room of the apartment, PO Sepulveda found a compact disc featuring § 87(2)(b)'s street name—"§ 87(2)(b)." PO Sepulveda stood directly in front of § 87(2)(b) and held the compact disc in front of his face. PO Sepulveda asked § 87(2)(b) "Is this you?" § 87(2)(b) responded, "Huh?" PO Sepulveda repeated the question while still holding the compact disc in front of § 87(2)(b)'s face. § 87(2)(b) jerked his head backward and said, "Ouch." PO Sepulveda did not make contact with § 87(2)(b). PO Sepulveda did not strike § 87(2)(b). Sgt. Chernyavsky said, "Are you kidding me?" § 87(2)(b) smirked. None of the officers said to § 87(2)(b) "Stop fucking around." § 87(2)(b) did not request medical treatment.

Sgt. Chernyavsky and PO Sepulveda returned to the apartment approximately one hour thereafter to retrieve a cell phone which had been stolen in a robbery that occurred in the Bronx.

Subject Officer: SGT. JAMES CAPPER

- Sgt. Capper is a § 87(2)(b).
- On February 2, 2012, he was on-duty from 5:30 a.m. to 2:05 p.m., assigned as a Field Intelligence Officer for the 120th Precinct in plainclothes in a raid jacket; he did not recall what vehicle he used.

Memo Book

On February 2, 2012, at 5:30 a.m., Sgt. Capper conducted a tactical plan assisting Patrol Borough Staten Island as the Field Intelligence Officer of a search warrant at § 87(2)(b). At 6:20 a.m., entry was made by ESU with INS John Denesopolis supervising the entry. § 87(2)(b) was under arrest by PO Sepulveda. ESU entry went according to plan without incident. At 8:00 a.m., he exited the location (encl. H1-2).

CCRB Testimony

Sgt. Capper provided an in-person statement at the CCRB on May 29, 2013 (encl. H3-4).

§ 87(2)(g).

After ESU secured the apartment, Sgt. Capper saw § 87(2)(b) and § 87(2)(b) in handcuffs and seated on a couch in the living room. § 87(2)(b) and § 87(2)(b) appeared cooperative and he did not observe anything unusual about their behavior. Sgt. Capper did not interact with them and he did not recall if he ever spoke to § 87(2)(b) about his brothers, who he knew. He did not recall if § 87(2)(b) was searched, if she interacted with PO Santos, if her shirt was lifted at any point, or if she made any remarks about her shirt being lifted up. Sgt. Capper searched the bedroom, but he did not recall if he recovered anything himself and he was unaware if Sgt. Chernyavsky or PO Sepulveda recovered anything.

At some point while inside the apartment, PO Sepulveda held a card or a CD cover with § 87(2)(b)'s face on it. He held it within inches of § 87(2)(b)'s face and asked him if the person on the card or CD cover was him. § 87(2)(b) then moved in a manner to appear as if he was struck in the eye. § 87(2)(b) did not say anything, but § 87(2)(b) laughed, as it appeared that they were joking around. PO Sepulveda never struck § 87(2)(b). Sgt. Chernyavsky asked § 87(2)(b) something to the effect of, "Are you kidding me?" Sgt. Capper did not recall where he exactly was when this occurred, but he was able to see this interaction unobstructed. § 87(2)(b)

did not complain of any injury and he did not request medical attention from Sgt. Capper or from anyone else at any point.

§ 87(2)(b) was removed to the 120th Precinct stationhouse, where Sgt. Capper conducted administrative work until the end of his tour. Sgt. Capper did not interact with § 87(2)(b) at the stationhouse, and he was unaware if § 87(2)(b) asked anyone for medical attention during this time.

Subject Officer: PO MASHIEL SANTOS

- *PO Santos is a § 87(2)(b) .*
- *She was on-duty from 11:15 p.m. to 7:50 a.m., assigned to housing auto in uniform and in marked patrol car 3168 with PO Kristen Varriano and PO Anthony Catania.*

Memo Book

At 5:30 a.m., PO Santos responded to a precinct assignment at § 87(2)(b) (encl. I1-4).

CCRB Testimony

PO Santos provided an in-person statement at the CCRB on March 28, 2013 (encl. I5-6).

§ 87(2)(g)

On the date of the incident, PO Santos, PO Varriano, and PO Catania were conducting patrol when they were contacted via radio or cell phone by an officer from her command that PO Santos did not recall to report to § 87(2)(b) to serve as the hospital auto team during the execution of a search warrant. The hospital auto team was assigned to transport any individuals if they were injured during the warrant execution. Upon her arrival outside the building, there were ESU officers, Sgt. Chernyavsky, PO Sepulveda, and other officers that she did not recognize or recall. PO Santos remained in the vehicle while the search warrant was executed.

After approximately ten minutes, she received a call or a radio dispatch from an officer that she did not recall to come upstairs to search and transport a female inside the apartment who was under arrest. PO Santos did not recall PO Varriano or PO Catania's whereabouts when she went to the apartment. When she entered, there were at least five ESU officers inside various rooms, looking underneath beds and inside closets in an apparent attempt to search for any other individuals. § 87(2)(b) and § 87(2)(b) were in handcuffs and accompanied by Sgt. Chernyavsky and PO Sepulveda. PO Santos was unaware if the officers conversed with them. In the living room and in the presence of § 87(2)(b) Sgt. Chernyavsky, and PO Sepulveda, PO Santos searched § 87(2)(b) she did not recall if other officers were present. PO Santos patted the exterior of § 87(2)(b)'s torso and waistband, and placed her hands into her pockets for any contraband. She also ran her fingers along the inside lining of § 87(2)(b)'s pants waistband, pants leg openings, and shirt collar. § 87(2)(b)'s clothing was never extended, pulled, lifted, pushed out, or removed. Nothing was recovered. PO Santos did not hear or see any conversation or interaction between § 87(2)(b) and officers, and denied that he was struck or touched by an officer while she was present. § 87(2)(b) did not ask for medical attention inside the apartment. None of the officers used any profanity, including the word "fuck," towards § 87(2)(b) or § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) were placed in a marked van with PO Santos seated in the rear passenger seating area. PO Santos did not recall who was driving or seated in the front passenger seat, and she did not recall PO Varriano and PO Catania's whereabouts. En route to the stationhouse, neither § 87(2)(b) nor § 87(2)(b) spoke or requested medical attention.

Upon arrival at the stationhouse, § 87(2)(b) and § 87(2)(b) were taken into custody by officers from the intelligence unit. PO Santos ended her tour and left; she did not interact with § 87(2)(b) and § 87(2)(b).

Subject Officer: PO JASON PORTEE

- PO Portee is a § 87(2)(b).
- On February 2, 2012, he was on-duty from 7:05 a.m. to 3:40 p.m., assigned as the male cell attendant in the 120th Precinct stationhouse by himself and in uniform.

Memo Book

PO Portee did not have any memo book entries regarding this incident (encl. J1-2).

CCRB Testimony

PO Portee provided an in-person statement at the CCRB on March 13, 2013 (encl. J3-4). He had no recollection of this incident. He did not recall a prisoner appearing injured, complaining of any injury, or requesting for medical attention. PO Portee did not recognize a photograph of § 87(2)(b) during the interview.

PO Portee stated that there are two rows of cells for male prisoners; they are separated into smaller cells by walls. Each cell typically occupies one or more persons. The separating walls are solid and occupants cannot see the occupants next to them. A metal gate serves as an entrance for a cell. The female cell area, typically attended by a female officer, is one floor above the male cell area. PO Portee affirmed that it was procedural to walk down the row of cells to monitor the prisoners and to attend to any of their needs every 30 minutes. He never left his post on the date of this incident. He did not recall who was assigned as the male cell attendant prior to his tour. PO Portee also affirmed that he would have not been permitted to leave his post after the end of his tour until another officer relieves him; he did not recall if another cell attendant from the previous or following tour were ever present with him while he was on-duty.

Subject Officer: PO FRED KLEIN

- PO Klein is a § 87(2)(b).
- He was on-duty from 11:15 p.m. on February 1, 2012, until 7:50 a.m. the following day, assignment as the 120th Precinct male cell attendant by himself and in uniform.

Memo Book

PO Klein had no memo book entries regarding this incident (encl. K1-2).

CCRB Testimony

PO Klein provided an in-person statement at the CCRB on March 12, 2013 (encl. K3-4). He had no recollection of this incident.

Medical Records

On April 12, 2013, § 87(2)(b) of § 87(2)(b) stated over the telephone that § 87(2)(b) was not incarcerated until § 87(2)(b). Medical records for any and all of § 87(2)(b)'s medical records confirm that there were no medical records pertaining to him until § 87(2)(b), at which time he was examined as a new-admit. There is no documentation regarding this incident or of any injury to § 87(2)(b)'s eye (encl. L1-32).

NYPD Document(s)

Search Warrant Pre and Post Execution Plan

Sgt. Chernyavsky obtained the search warrant and was listed as the team leader. A gravity knife, bath salt (controlled substance), and drug packaging were recovered. No incidents or injuries occurred during the search warrant execution (encl. M14-16).

Prisoner Holding Pen Roster

§ 87(2)(b) was placed in a holding cell from 9:00 a.m. to 11:00 a.m. § 87(2)(b) was in the same holding cell from 10:00 a.m. until 3:00 p.m. After § 87(2)(b) was released, § 87(2)(b) did not share the holding cell with anyone else (encl. M2).

Roll Call

The 120th Precinct roll call shows that PO Portee was assigned as the male cell attendant from 7:05 a.m. to 3:40 p.m. on the incident date (encl. M17).

Search Warrant

§ 87(2)(b) of § 87(2)(b) Supreme Court stated that any police officer was authorized to search for and seize the following property at the location: “firearms, evidence of firearms, firearm accessories, ammunition, boxes, manuals, receipts for firearms purchases, firearm paperwork, cell phones, digital cameras, digital storage media such as thumb drives and memory cards, photographs depicting the suspect in possession of firearms and any evidence of a proprietary interest in the premises.” Officers were allowed to search any and all persons inside the location, and to conduct the search at any time but no more than ten days from the issuance of the warrant (January 31, 2012) (encl. N1).

Bench Warrant

§ 87(2)(b) of § 87(2)(b) Court issued a bench warrant for disorderly conduct on § 87(2)(b), for § 87(2)(b) in regards to docket number § 87(2)(b) (encl. N2-3).

§ 87(2)(b)

■

Status of Civil Proceedings

- As of April 30, 2013, neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim with regard to this incident (encl. P9).

[illegible]

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (encl. B1-2).

- PO Sepulveda has been a member of the service for eleven years and there are no substantiated CCRB allegations against him (encl. A1).
- Sgt. Chernyavsky has been a member of the service for nineteen years and there are no substantiated CCRB allegations against him (encl. A2).
- Sgt. Capper has been a member of the service for fifteen years and there are no substantiated CCRB allegations against him (encl. A5).
- PO Santos has been a member of the service for six years and there are no substantiated CCRB allegations against her (encl. A3).
- PO Portee has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. A4).

PO Sepulveda acknowledged interacting with § 87(2)(b) and PO Santos acknowledged interacting with § 87(2)(b)

Sgt. Chernyavsky was identified as his physical attributes were similar to the descriptions provided by § 87(2)(b). Sgt. Chernyavsky was listed as a subject officer in regards to § 87(2)(b)'s allegation that officers did not provide medical treatment because he acknowledged that he was the supervisor of the arrest and search warrant execution.

PO Portee was identified as a subject officer as he affirmed that he was the cell attendant while § 87(2)(b) was in a 120th Precinct stationhouse holding cell. His physical attributes were also similar to the description that § 87(2)(b) provided.

The officer who spoke discourteously to § 87(2)(b) was not identified because § 87(2)(b) was unable to determine whether Sgt. Chernyavsky or PO Sepulveda made the alleged remark. Additionally, identifying this officer was unnecessary as it did not affect the disposition of this allegation.

Allegation Not Pled

An allegation that officers drew their guns is not pled as it is subsumed into the allegation that the location was entered and searched.

Investigative Findings and Recommendations

- **Allegation A – Abuse of Authority: Officers entered and searched § 87(2)(b) in Staten Island.**

It is undisputed that officers entered and searched § 87(2)(b) of § 87(2)(b). According to New York State Criminal Procedure Law § 690.20 allows a search warrant to be executed within the warrant's stipulated terms. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

- **Allegation B – Abuse of Authority: At § 87(2)(b) in Staten Island, PO Mashiel strip-searched § 87(2)(b)**

§ 87(2)(b), § 87(2)(a) CVR § 50-b

Although PO Santos affirmed searching § 87(2)(b), she denied strip searching her, stating that she never extended, pulled, lifted, pushed out, or removed any of § 87(2)(b)'s clothing. Sgt. Chernyavsky stated that § 87(2)(b) was searched but not strip searched, while PO Sepulveda and Sgt. Capper did not recall if she was searched or strip searched. § 87(2)(g)

- **Allegation C – Force: At § 87(2)(b) in Staten Island, PO Manuel Sepulveda used physical force against § 87(2)(b)**

§ 87(2)(b) stated that PO Sepulveda, while holding a CD insert with § 87(2)(b)'s image on it, slapped § 87(2)(b)'s left eye with the palm of his right hand, which blurred his vision and made him feel dizzy. According to PO Sepulveda, as he held up a flyer of § 87(2)(b) next to § 87(2)(b)'s face, § 87(2)(b) jerked his head back and said, "Ow." PO Sepulveda denied touching or slapping § 87(2)(b). § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

- **Allegation D – Abuse of Authority: At § 87(2)(b) in Staten Island, PO Manuel did not obtain medical treatment for § 87(2)(b)**
- **Allegation E – Abuse of Authority: At § 87(2)(b) in Staten Island, Sgt. Henry Chernyavsky did not obtain medical treatment for § 87(2)(b)**
- **Allegation F – Abuse of Authority: At § 87(2)(b) in Staten Island, Sgt. James Capper did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(b) said that after he was slapped, he asked PO Sepulveda, Sgt. Chernyavsky, and Sgt. Capper for medical attention, but none of the officers provided it. PO Sepulveda, Sgt. Chernyavsky, and Sgt. Capper denied that § 87(2)(b) asked for medical attention during this incident. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

- **Allegation G – Discourtesy: At § 87(2)(b) in Staten Island, an officer spoke discourteously to § 87(2)(b)**

§ 87(2)(b) stated that PO Sepulveda or Sgt. Chernyavsky told him, “Stop fucking around.” Both officers denied this allegation. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

- **Allegation H – Abuse of Authority: At the 120th Precinct stationhouse, PO Jason Portee did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(b) testified that he while he was alone in the holding cell, he asked PO Portee for medical treatment, but was refused. However, PO Portee had no recollection of this incident. As § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

- § 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Complaint Report (CCRB)

CCRB Case No :	201201879	C/V Report Date :	Thu, 02/09/2012
Complaint Type :	CCRB	Investigator :	Alexander Lai
Complaint Made At :	CCRB	Ref. No	
Received Date (CCRB) :	Thu, 02/09/2012	Mode :	Call Processing System
Incident Date(s) :	Thursday, 02/02/2012 6:20 AM		
Place of Occurrence:	[REDACTED]	Precinct:	120
Location :	Apartment/house	Boro:	Staten Island
Reason for Initial Contact :	Execution of search warrant		
Charges:	Arrest - other violation/crime		

Complainant/Victim Details

Name:	[REDACTED]	Type:	Comp/Victim
Address:	[REDACTED]		
Contacts:	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	
	[REDACTED]		
Gender:	[REDACTED]	Ethnicity:	[REDACTED]
Person Assisting:		Date of Birth:	[REDACTED]

Name:	[REDACTED]	Type:	Victim
Address:	[REDACTED]		
Contacts:	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	
	[REDACTED]		
Gender:	[REDACTED]	Ethnicity:	[REDACTED]
Person Assisting:		Date of Birth:	[REDACTED]

Officer(s) Named in Complaint

Rank	Officer	S/W Officer	Tax No	Race	Cmd	Allegations/Board Dispositions
SDS	Henry Chernyavsky	Subject Officer	905582	White	318	Refusal to obtain medical treatment - (A) Unsubstantiated
SGT	James Capper	Subject Officer	920084	White	318	Refusal to obtain medical treatment - (A) Unsubstantiated
POM	Jason Portee	Subject Officer	945283	White	120	Refusal to obtain medical treatment - (A) Unsubstantiated
POF	Mashiel Santos	Subject Officer	943782	Hispanic	120	Strip-searched - (A) Unsubstantiated
	Officers	Subject Officer			318	Premises entered and/or searched - (A) Exonerated

	An officer	Subject Officer				Word - (D)
POM	Manuel Sepulveda	Subject Officer	929157	Hispanic	120	Unfounded
POM	Manuel Sepulveda	Subject Officer	929157	Hispanic	120	Physical force - (punched/kicked/kneed) - (F) Unsubstantiated
POM	Fred Klein	Witness Officer	911705	White	120	Refusal to obtain medical treatment - (A) Unsubstantiated

Initial Complaint Narrative

On February 2, 2012, at approximately 5:30AM, approximately twelve officers, some in uniform and some in plainclothes, executed a search warrant at § 87(2)(b) home, § 87(2)(b) within § 87(2)(b), Staten Island. PO Manuel Sepulveda of the 120th PCT-§ 87(2)(b) did not specify how he obtained this information--punched § 87(2)(b) in the left eye, causing "eye strain." Four other officers and § 87(2)(b) spouse witnessed this. No contraband was located during the search, but officers arrested § 87(2)(b) for having a Victoria's Secret bath product that they alleged was a controlled substance. PO Sepulveda: possibly Hispanic male, 5'6", 160 lbs., with black hair and a pock-marked face.

Witness

Name of Witness:

Address:

Contacts:

Gender :

Date of Birth :

Ethnicity: